

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FLATIRON HEALTH, INC.,

Plaintiff,

- against -

KENNETH CARSON, M.D.,

Defendant.
----- X

19 Civ. 8999 (VM)

DECISION AND ORDER

VICTOR MARRERO, United States District Judge.

Plaintiff Flatiron Health, Inc. ("Flatiron") brought this action against its former employee, defendant Kenneth Carson, M.D. ("Carson"), to enforce a non-compete agreement.¹ Flatiron claims that Carson anticipatorily repudiated his Employee Covenants Agreement (the "Agreement") with Flatiron by informing Flatiron that he accepted a job at Tempus, Inc. ("Tempus") and planned to immediately begin work there. Flatiron seeks a declaratory judgment, pursuant to 28 U.S.C. Section 2201, that Carson is contractually barred from working for Tempus in any capacity, from soliciting Flatiron customers and employees for the one-year period following his separation from employment by Flatiron, and from retaining, using, or disclosing to third parties any of Flatiron's trade secrets and confidential information. Flatiron also asks the Court to permanently enjoin Carson, until September 26, 2020,

¹Flatiron has since dismissed its claims against Tempus, Inc. (Dkt. No. 32.)

from directly or indirectly rendering services to Tempus or any entity or person whose primary business is providing software products, data analysis, data, clinical trial search services, analytics, and electronic medical record systems to hospitals, physicians, community practices, health care centers, and pharmaceutical companies in the oncology industry; from diverting or attempting to divert from Flatiron any business of any kind, including, without limitation, soliciting or interfering with any of Flatiron's customers, clients, members, business partners, or suppliers; and from copying or reproducing for his or Tempus Inc.'s use or giving, divulging, revealing, or otherwise disclosing to any person or business or professional entity, any trade secrets or confidential business information of Flatiron, or any client of Flatiron, and must return all copies of such trade secrets and confidential business information.

The Court held a bench trial to adjudicate Flatiron's claims on January 27, 28, and 30, 2020.

The Court concludes that Flatiron failed to present sufficient evidence to prevail on its claims. A decision setting forth the findings of fact and conclusions of law required by Federal Rule of Civil Procedure 52(a) is forthcoming.

Accordingly, it is hereby

ORDERED that Plaintiff Flatiron Health Inc.'s request for a declaratory judgment pursuant to 28 U.S.C. Section 2201 is **DENIED**; and it is further

ORDERED that Plaintiff Flatiron Health Inc.'s request for an injunction is **DENIED**; and it is further

ORDERED that the Clerk of Court enter judgment in favor of defendant Kenneth Carson, M.D.

SO ORDERED.

Dated: New York, New York
19 February 2020


VICTOR MARRERO
U.S.D.J.